IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 365 OF 1985

M/s. New India
Impex Ltd., .. Plaintiffs.

vs.

M/s. Rajprakash Spinning
& Weaving Mills. .. Defendants.

Mr. K.S. Jain for the plaintiffs.
Mr. V. B. Vengurlekar i/by M/s. Crawford Bayley & Co. for defendants.

CORAM : S.U.KAMDAR, J.

DATE : 13th January,2006.

P.C.

. The present suit is filed by the plaintiff for recovery of a sum of Rs. 3 lacs with interest at the rate of 18% per annum on the principal amount of Rs. 1,77,870.72 which came on the foot of the account. It is the case of the plaintiff that sometime prior to June 1977 it was agreed between the plaintiffs and the defendants that the plaintiffs would send staple viscose fibre to the defendants and arrange to send polyster fibre from

Calico Mills Fibre Division in their account. It was also agreed that the defendant would blend the same into yarn in the ratio of 48% polyster and 52% viscose. The plaintiffs were to bear and pay the conversion charges and excise duty. Pursuant to the said understanding, the plaintiffs supplied viscose fibre to the defendants and also arranged to supply polyster fibre to the defendants from calico Mills. After supply of the said fibre the defendant made part payment of the amount by various cheques in respect of the conversion charges. The plaintiffs also drew hundies on the defendants. It is the case of the plaintiffs that in respect of the aforesaid supply there was a mutual open and current account running between the parties and as on 31.12.1980 on the foot of the account there was due and payable by the defendants to the plaintiffs a sum of Rs. 2,78,661.62 inclusive of interest at the rate of 18% per annum. By their advocate's letter dated 10.1.1981 the plaintiffs called upon the defendants to make payment of the aforesaid amount. as due and payable as on 31.12.1980. However, in spite of the notice, the defendants having failed to make payment, the present suit is filed for recovery of the said amount at the foot of the account.

2. The defendants were duly served and were directed to file written statement by order dated 1.7.1986 within a period of 12 weeks. The matter

was placed on board on 5.9.2003. Time of two weeks was obtained to file the written statement. Inspite of the same there is no written statement filed even till today. Even today also the advocate for the defendants is not ready and states that he is not getting instructions from the defendants in spite of letters addressed to the defendants.

3. The plaintiff has tendered original documents which are taken on record and marked Exhibit A collectively. In the light of the aforesaid, decree is passed in favour of the plaintiffs and against the defendants for the sum of Rs. 3 lacs with further simple interest at the rate of 12% per annum on the principal amount of Rs. 1,77,780.72 from the date of the suit till payment and/or realisation. The plaintiffs will be also entitled to costs.